

STATE OF MICHIGAN
BEFORE THE MICHIGAN PUBLIC SERVICE COMMISSION

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In the matter, on the Commission's own motion,)	
to consider SBC's, f/k/a AMERITECH MICHIGAN,)	
compliance with the competitive checklist in)	Case No. U-12320
Section 271 of the federal Telecommunications Act)	
of 1996.)	
_____)	

At the January 13, 2003 meeting of the Michigan Public Service Commission in Lansing,
Michigan.

PRESENT: Hon. Laura Chappelle, Chairman
Hon. David A. Svanda, Commissioner
Hon. Robert B. Nelson, Commissioner

OPINION AND ORDER

By a minute action issued today, the Commission approved its report on SBC's compliance with 47 USC 271 (Section 271) in anticipation of SBC's filing of an application with the Federal Communications Commission (FCC) for authority to provide in-region interLATA service. As described more fully in the report, the Commission finds that SBC has demonstrated compliance with Section 271. Notwithstanding that conclusion, there are aspects of SBC's current performance that could be improved, and SBC has proposed to make improvements in some areas. This order addresses those areas in which the Commission concludes that SBC should continue to improve its performance and addresses the remaining issues with respect to SBC's offering of access to the calling name (CNAM) database.

Third-Party Testing and Adoption of Compliance Proposals

SBC's Position

SBC proposes to implement a compliance plan that would include actions designed to improve certain aspects of its operations support systems (OSS). For certain circumstances, it would determine that a corrective action has occurred via a management assertion and would retain a third-party contractor, Hewlett Packard, to validate its assertions on these matters after the corrective actions have occurred. SBC proposes to review its audit plan with the Commission Staff (Staff), to implement corrective actions, and to have Hewlett Packard verify that those actions have been taken. For certain other situations, SBC proposes an internal improvement plan rather than a compliance plan. A third-party contractor would not be retained in these instances to monitor progress nor would SBC review its plans with the Staff prior to implementation. SBC proposes to provide quarterly updates to the Commission or the Staff on the company's progress.

Other Parties' Positions

Several competitive local exchange carriers (CLECs) have proposed that if compliance or improvement plans are determined to be appropriate, the plans should be developed collaboratively with the input of the CLECs, as has been the case for BearingPoint's third-party testing. AT&T Communications of Michigan, Inc., (AT&T) proposes that the "CLECs would contribute recommended priorities and test protocols and their own testing resources as appropriate, and [SBC] would be called upon to ensure that the tests are appropriately scheduled and resourced to ensure timely completion." AT&T's November 15, 2002 comments on SBC's compliance plan, p. 9.

AT&T, Long Distance of Michigan, Inc. (LDMI), and WorldCom also suggest that Hewlett Packard not be retained to address any compliance matters because they believe that it has not

closely followed the audit requirements as a subcontractor in BearingPoint's third-party test and in some testing matters for the Section 271 compliance monitoring for Texas Southwestern Bell Telephone Company.

Discussion

Any outstanding exceptions and observations open as of the date of this order in BearingPoint's transactions and procedures tests shall continue to be addressed by SBC until satisfactory results have been achieved as determined by BearingPoint, or are closed as determined by the Commission and its Staff. No further new or refresh processes and procedures tests or transaction verification and validation tests not specifically addressed below shall be undertaken by BearingPoint in Michigan pursuant to the Michigan Master Test Plan. Upon completion of actions relating to now existing open observations and exceptions in the transactions and procedures tests, BearingPoint shall submit to the Commission an addendum to the October 30, 2002 report that addresses only the test criteria that were indeterminate or not satisfied at the time of the earlier report. The Commission will then determine what further action, if any, should be taken with respect to those portions of BearingPoint's tests.

The performance metrics audit tests should continue unchanged by BearingPoint at this time, pursuant to the provisions of the Michigan Master Test Plan, and the project plans needed to complete those actions. BearingPoint shall file a report on progress in these tests every other month beginning at the end of February 2003. Once again, the Commission will determine what action, if any, should be taken upon the filing of each of those reports.

Similarly, Ernst & Young shall complete its audit activities and verify that all issues have been corrected and restatements completed for items addressed in the October, November, and December 2002 audit reports. Corrective actions must be taken on all outstanding issues

including, and in particular, those scheduled to occur this month for performance measure 104.1 (911 data base). It shall file a progress report on February 28, 2003 and a final report thereafter if the required activities are not complete at the time of the February report.

The Commission will vigorously pursue completion of all these portions of the BearingPoint and Ernst & Young tests.

With regard to compliance and improvement plans to be implemented to address certain issues highlighted in BearingPoint's transactions and procedures tests and in comments made by CLECs in this proceeding, the Commission has first determined that it will not prohibit SBC from contracting with any third-party contractor which has been involved in these 271 proceedings to date, including Hewlett Packard, BearingPoint, or Ernst & Young, for these purposes. The substitution of any other contractor must be reviewed with the Commission Staff. As discussed below, the utilization of the third-party contractor will be clearly specified in a plan to be filed with the Commission. No later than February 13, 2003, SBC shall submit detailed compliance and/or improvement plans for each of the items discussed in this order. In the development of those plans, it shall recognize and take into account, to the extent possible, the written responses that the CLECs have filed regarding SBC's preliminary proposals. Compliance plans need not include test CLEC transactions, although sample testing of actual improvements may be appropriate. To the extent that actions have already been taken for certain items as proposed in SBC's October 30, 2002 filing, its February 13, 2003 submission shall include a detailed report of progress to date and further actions that remain to be taken. The utilization of Hewlett Packard for each item or another third-party contractor shall also be identified where appropriate. A collaborative session will be convened in the Commission's offices on March 4, 2003, and March 5 if needed, at which time the proposals and progress reports will be discussed by SBC with the

purpose of receiving further input from the CLECs, the Staff, and other interested parties. Based on the input received during those discussions, SBC shall submit its modified plans to the Commission by March 13, 2003.

Finally, as discussed in the accompanying report, the Commission will in the near future be addressing outstanding issues in Case No. U-11830 related to SBC's performance remedy plan currently in place in Michigan. However, the Commission takes the opportunity at this time to note that its consideration of the outstanding issues in Case No. U-11830 will include a particular emphasis on the Commission's ongoing oversight and monitoring activity to assure that backsliding in the post 271 environment will be prevented and immediately addressed. This will again include the potential assessment of additional remedies, penalties, and/or fines should this be required.

Pre-Order Processing Improvements

SBC has represented that it has taken actions and that it proposes to take further action to improve pre-order timeliness through its EDI interface. SBC's February 13, 2003 filing shall include, among other things, information to validate its findings that it has "recently made a change to the configuration of its pre-order EDI translator software" and that "[p]reliminary results show a decrease in translator processing time." SBC's October 30, 2002 compliance plan proposals, p. 11. As discussed above, the filing shall then further delineate, in detail, its plan to achieve further improvements in this regard. Finally, proposals shall be made to immediately clarify and amend Performance Measure 2 regarding pre-order timeliness so that measurement of protocol conversion time is clearly defined.

Line Loss Notifiers

An improvement plan regarding this issue shall include, at a minimum, a requirement to issue an accessible letter to the affected CLECs within 24 hours of determining that an interruption of line loss notification issuance has occurred that could affect more than one CLEC. Any available details concerning the cause, scope, or duration of the interruption shall be provided in the letter. Contact with individual affected CLECs shall follow immediately. Additional follow-up accessible letters shall be issued to provide further information regarding the interruption as soon as it becomes available. Further, if SBC changes line loss notifier procedures, it shall immediately provide appropriate notice. If non-compliance with this procedure is indicated, information supporting this allegation shall be submitted to the Commission for further analysis. SBC's improvement plan shall also include monthly reporting to the Commission for a minimum period of six months identifying line loss issues that have developed during the month; their cause, duration, scope of loss notifiers affected, and number of providers affected; and actions taken to address those issues. Ongoing reporting thereafter may be required by the Commission. SBC shall take care in its definition of line loss issues to include a broad interpretation of what should be included in this report. Items that it may not directly define as a line loss issue but that clearly affect the issuance of line loss notifiers shall be addressed in its report. Finally, although the Commission is aware that changes are being discussed with regard to Performance Measure MI 13, including proposals to attach remedies to this measure, SBC is hereby advised that additional remedies or other sanctions may be imposed by the Commission should it be determined that such actions are needed to achieve compliant behavior.

Customer Service Record and Directory Listing Database Accuracy

SBC's Position

In its October 30, 2002 proposed compliance plan, SBC indicates that it believes that all system issues have been addressed for customer service records (CSRs) that may have caused failure of BearingPoint's tests in this regard. SBC therefore proposes that its compliance plan will focus on service representative training and will, by sample, attempt to identify any as-yet unaddressed system or process errors. With respect to directory listing accuracy, SBC says that many of the errors identified by BearingPoint in its test would not affect the ability of a user to obtain the listing and are consistent with errors found on the retail side as well. Its compliance plan regarding directory listings includes both a system improvement component, service representative training, and an attempt to identify through a sampling technique any remaining system issues that might be causing errors to occur.

Other Parties' Positions

AT&T objects to SBC's proposed compliance plan. It believes that the content of service representative training material and the period over which training will occur is not specified and should be. It also objects to the proposal to limit testing to UNE-P and resale orders and to limit fixes to those that produce "frequent and significant" errors. It also believes there is no commitment by SBC to actually fix the problems that are identified. It therefore proposes the implementation of a new, remedied performance measure as one step in motivating improvement.

With regard to SBC's proposal for a directory listing compliance plan, AT&T believes that it should be specified how the proposed system enhancements will address the issue at hand or whether it will address only a part of the issues causing the errors. It says that the deficiencies in

the quality assurance assertions are identical to those identified for the CSR errors. It also proposes to implement a new performance measure for this process as well.

Discussion

The Commission will require the submission of detailed compliance plans to improve the accuracy of both CSRs and directory listings. Such proposals shall expand upon the proposals made by SBC on October 30, 2002 and shall recognize and incorporate, to the extent possible, the specific issues raised by AT&T.

Trouble Report Closure Coding

SBC's Position

In its October 30, 2002 filing, SBC proposes an improvement plan to address issues relating to inaccurate close-out coding. SBC proposes initiatives for the workforces of each of the four operational work areas involved in this process: local operations center, installation and repair centers, special services center, and central offices. Its proposals include awareness sessions and employee quality reviews.

Other Parties' Positions

AT&T indicates that the relationship between SBC's proposed monthly quality reviews and improved accuracy and completeness of coding is not clear because the original source information is not available in such a review. In addition, it suggests that any awareness sessions must address accuracy as well as completeness in order for positive results to be realized.

Discussion

The Commission finds SBC's proposed improvement plan to be inadequate. Its plan does not appear to include any measure by which improvement can be assessed. Much of the proposed improvement plan has apparently been put into effect given the November 10, November 25, and

December 1, 2002 implementation dates in its proposal. The results of coding accuracy tests in the other four Ameritech states exceeded the Michigan test results. SBC indicates that improvements implemented in other states would have helped the Michigan tests as well had the Michigan tests been performed at a later date. Nevertheless, there is no indication that this resulted. The Commission will require that SBC's February 13, 2003 filing include a compliance plan for this issue, with oversight by a third-party to provide some assurance that improvements in accuracy of trouble closures has indeed occurred in Michigan.

Billing Auditability

A number of CLECs, including LDMI, Z-Tel Communications, Inc., and XO Michigan, Inc., have raised issues related to their inability to audit bills received from SBC and to utilize its billing dispute resolution process once issues arise. SBC has not responded to these issues.

SBC shall include in its February 13, 2003 filing an improvement or compliance plan to address these issues.

Change Management

SBC's Position

SBC believes that its 13-state uniform change management process fully complies with the requirements of the FCC and that it abides by the requirements of that procedure. It asserts that its satisfaction of BearingPoint's tests in this area supports that conclusion.

Other Parties' Positions

In its October 30, 2002 comments and in additional comments filed on December 19, 2002, AT&T discusses a number of issues that have recently occurred that are indicative of an inadequate change management process. In particular, it believes that adherence to the exception

process in SBC's 13-state uniform change management process would have prevented many recent problems from occurring.

Discussion

As indicated in the Section 271 report issued today, the Commission has concluded that SBC's 13-state uniform change management process complies with the FCC's requirements and that testing indicates SBC's compliance with that process. However, the Commission agrees with AT&T that some of SBC's recent OSS changes were not announced prior to their implementation and did indeed negatively affect the CLECs. In its December 23, 2002 comments, SBC has agreed. Although it appears that in those cases SBC did comply with the letter of its change management process, it also appears that a more encompassing definition of items covered by the exception process is necessary, as AT&T suggests. Therefore, SBC shall include in its February 13, 2003 filing a compliance and/or improvement plan to address the issues AT&T has raised. As with the other proposals discussed in this order, the change management proposals shall be discussed further in the collaborative sessions.

Line Sharing/Line Splitting

SBC's Position

On October 3, 2002, the Commission issued an order in Case No. U-12320 that modified SBC's previous line sharing/line splitting proposal and required SBC to file a compliance plan. SBC filed a plan on November 4, 2002 and an amended plan on December 12, 2002 based on input from the Staff and various CLECs. SBC asserts that the amended compliance plan is in full compliance with the Commission's October 3 order and prior Commission orders. SBC also states that its plan fully complies with the FCC requirements and Section 271(c)(2)(B)(iv).

Other Parties' Positions

AT&T and WorldCom assert that SBC's amended compliance plan is not in compliance with the Commission's order. WorldCom raises several issues, including that the data local exchange carrier (DLEC) in a line splitting situation cannot access OSS, that the voice CLEC should not need permission from the DLEC to migrate voice service, that SBC seeks to disconnect its splitters when it has neither the voice nor data service, that the migration process is unworkable in a CLEC-to-CLEC situation, and that the pricing is inappropriate.

AT&T concurs with WorldCom and objects to being required to submit multiple orders to implement line sharing-to-line splitting transactions.

Discussion

The Commission concludes in the Section 271 report that SBC's amended compliance plan is in compliance with the Commission's October 3, 2002 order. The pricing is appropriate, and the ordering processes that have been established assure that the customer is protected while providing a workable, albeit not ideal, process for line sharing and line splitting transactions.

However, WorldCom is correct that other possible scenarios for line sharing/line splitting may occur that have not been envisioned or addressed in SBC's plan. In particular, the Commission is concerned about the process to replace an SBC affiliate splitter with that of a DLEC in a line splitting situation. Therefore, the collaborative discussion scheduled for March 4, 2003 shall include discussion of line sharing/line splitting issues that exist at that time. The CLECs should identify those issues by February 13, 2003.

Access to the CNAM Database

The Commission's March 7, 2001 order in Case No. U-12540 required SBC to permit CLECs to download the entire CNAM database, as WorldCom had argued, rather than limiting their

access to a per-call query. Providers use the database to provide, among other things, Caller ID-type services. The Commission's July 25, 2001 order denied SBC's petition for rehearing. On December 20, 2001, the Commission issued an order in this docket "to provide Ameritech Michigan with forewarning of issues on which the Commission may later determine that the company is not in compliance with the requirements of the Section 271 checklist." December 20, 2001 order, Case No. U-12320, p. 3. The Commission indicated that availability of the CNAM download was one of the issues that required SBC's attention and therefore directed SBC to revise the tariff.

Since the Commission first required SBC to permit CLECs to download the CNAM database, WorldCom has raised a number of objections to the tariffs that SBC has filed to comply with the Commission's orders. In its April 12, 2002 comments in this docket, WorldCom objected to the proposed cost and usage restrictions. On June 21, 2002, the Commission approved, with modifications, SBC's cost studies for the database download, leaving only the issue of usage restrictions.

WorldCom objects to tariff language that restricts, in various ways, use of the database download to the provision of local telecommunications to end-users to whom the providers also provide local exchange service to provide calling name delivery service using the SS7 network.

The Commission concludes that the tariff, as most recently revised by SBC, complies with the Commission's orders. WorldCom's objections would be easier to evaluate if WorldCom had made clear precisely what it seeks to lawfully do with the database download that is prevented by restrictions in the tariff. Nevertheless, the Commission finds that restrictions that limit the use of an intrastate tariff to intrastate services is appropriate. It would not be appropriate for WorldCom to use a Michigan intrastate tariff to purchase services that it should purchase under an interstate

tariff. Similarly, restrictions taken from an FCC order that limit the use of a database to services supported by the database are appropriate and should be unobjectionable unless WorldCom is seeking to use the service in a manner not envisioned by the FCC. The Commission thus concludes that SBC's CNAM database offering complies with the Commission's orders and satisfies the requirements of Section 271.

The Commission FINDS that:

- a. Jurisdiction is pursuant to 1991 PA 179, as amended, MCL 484.2101 et seq.; 1969 PA 306, as amended, MCL 24.201 et seq.; and the Commission's Rules of Practice and Procedure, as amended, 1992 AACS, R 460.17101 et seq.
- b. SBC should implement compliance and improvement plans and submit reports as required by this order.

THEREFORE, IT IS ORDERED that:

- A. On or before February 13, 2003, SBC shall file the compliance and improvement plans required by this order.
- B. A collaborative session shall convene at the Commission's offices on March 4, 2003 at 9:00 a.m.
- C. On or before March 13, 2003, SBC shall file modified compliance and improvement plans that reflect the collaborative discussions.

The Commission reserves jurisdiction and may issue further orders as necessary.

Any party desiring to appeal this order must do so in the appropriate court within 30 days after issuance and notice of this order, pursuant to MCL 462.26.

MICHIGAN PUBLIC SERVICE COMMISSION

/s/ Laura Chappelle
Chairman

(S E A L)

/s/ David A. Svanda
Commissioner

/s/ Robert B. Nelson
Commissioner

By its action of January 13, 2003.

/s/ Dorothy Wideman
Its Executive Secretary

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MICHIGAN PUBLIC SERVICE COMMISSION

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By its action of January 13, 2003.

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In the matter, on the Commission's own motion,)
to consider **SBC's, f/k/a AMERITECH MICHIGAN,**)
compliance with the competitive checklist in)
Section 271 of the federal Telecommunications Act)
of 1996.)
_____)

Case No. U-12320

Suggested Minute:

“Adopt and issue order dated January 13, 2003 requiring SBC to file compliance and improvement plans with respect to its operations and support systems, as set forth in the order.”